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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/684,010

10/06/2000

William W. Smith III

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09/01/2009

KHORSANDI PATENT LAW GROUP, A.L.C.

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EXAMINER

PLUCINSKI, JAMISUE A

ART UNIT

PAPER NUMBER

3629

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/684,010	<b>Applicant(s)</b> SMITH ET AL.	
	<b>Examiner</b> JAMISUE A. PLUCINSKI	<b>Art Unit</b> 3629	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 June 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4,6,7,9,10 and 31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6,7,9,10 and 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20090701, 20080718</u> .                                      | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/16/09 has been entered.

### ***Response to Amendment***

2. The affidavit filed on 6/16/09 under 37 CFR 1.131 has been considered but is ineffective to overcome the InterShipper and the Barton reference.

3. The InterShipper reference as well as all references applied as art upon the claims are a statutory bar under 35 U.S.C. 102(b) and thus cannot be overcome by an affidavit or declaration under 37 CFR 1.131. The references which the applicant has sworn behind, are not references which were applied to the claims in the previous office action. The InterShipper reference used in the claim was the reference in the Newsbyte article and was published in February of 1998. The InterShipper reference the applicant is attempting to swear behind was one cited by the examiner back in the year 2003, it was a PR Newswire article that was merely cited as relevant, and not applied to the claims. The Barton reference is not being applied to the claims, therefore it is unclear why the applicant is swearing behind this reference.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1, 3, 4, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholls et al. (5,631,827) in view of Boucher et al. (6,976,007).

7. With respect to Claims 1, 6 and 7: Nicholls discloses the use of a centralized computer system for the management of shipping (see abstract), comprising:

- a. A plurality of functionally aligned server computer devices, which are programmed to perform a specific function (See figures 2 and 6).
- b. A first server computer device which is adapted for communicating access of the user (Supervisory Server, Figure 6 with corresponding detailed description); and
- c. A second server used for rating parcels (Rate Server, Figure 6).

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8. Nicholls discloses the use of multiple servers performing specific functions and discloses tracking as an option (See Figure 2) but fails to disclose the use of a server used for tracking.

Boucher discloses the use of a multi-carrier package tracking system, with a tracking server (22), which upon receipt of a user tracking request (191) through Instatrac (89), communicates with the appropriate carrier servers to store tracking information and display to the user (See Column 4, lines 48-65 and Column 8, lines 10-22). Boucher discloses that once the specific carrier is determined an online connecting is established with the carrier and the information is obtained from the carrier through the online connection (See abstract and Reference Numerals 24 and 130 with corresponding detailed descriptions). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify Nichols with the tracking server in the multi-carrier tracking system of Boucher, in order to provide a tracking service to a user, and allows a user to obtain prioritized tracking information from a carrier. (See Boucher abstract and column 3)

9. With respect to Claim 3: See Nicholls, Document Server.

10. With respect to Claim 4: See Nicholls, Figures 4A, 4B.

11. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholls and Boucher, as disclosed above for Claim 1, and further in view of Kara (6,233,568) and InterShipper (Newsbytes Article, Internet Update)

12. Nichols discloses a multiple carrier system that calculates rates for carriers with specific parameters such as a notification of delivery, however Nicholls discloses the automatic selection

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of a carrier and fails to disclose simultaneously displaying the rates of the carriers to the user.

Kara discloses a computer program used for multiple shippers that simultaneously displays that calculate shipping rates of multiple carriers for multiple services (See Figure 8, column 22, lines 20-38). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the shipping rates of Nicholls be displayed to the user as disclosed by Kara, in order to present the user with information from which to make an informed choice as to a particular shipping service provider by which to ship a particular item. (See Kara, column 22)

13. Nicholls and Kara, disclose the use of calculating and displaying rates for specific services, for multiple carriers, but fails to disclose the simultaneous display of the rates for each carrier for each service. Intershipper is an internet, online website, where internet users can enter origin, destination, package weight and dimensions and will be displayed every method possible that you can use to ship your package for all major shippers (See Internet Update Article Page 1, Paragraphs 1-3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Nicholls and Kara to display every method possible to ship a package, as disclosed by InterShipper, in order to find the cheapest shipping rate (See Page 1).

14. Claims 9, 10 and 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholls and Boucher in view of Kara et al. (6,233,568), UPS® Service Guide ([www.ups.com](http://www.ups.com)) and FedEx® Services ([www.fedex.com](http://www.fedex.com)), InterShipper (Newsbytes Article, Internet Update) and Barnett et al. (6,369,840).

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15. With respect to Claims 7, 9 and 31: Nicholls discloses the use of a centralized computer system and method for the management of shipping (see abstract), comprising:

- d. A plurality of functionally aligned server computer devices, which are programmed to perform a specific function (See figures 2 and 6).
- e. A first server computer device which is adapted for communicating access of the user (Supervisory Server, Figure 6 with corresponding detailed description) and accepting parcel information, See Figures 4A and 4B).
- f. A second server used for rating parcels for multiple carriers for multiple services (Rate Server, Figures 2 and 6).

16. Nicholls discloses the use of multiple servers performing specific functions and discloses tracking as an option (See Figure 2) but fails to disclose the use of a server used for tracking. Boucher discloses the use of a multi-carrier package tracking system, with a tracking server (22), which upon receipt of a user tracking request (191) through Instatrak (89), communicates with carrier servers to store tracking information and display to the user (See Column 4, lines 48-65 and Column 8, lines 10-22). Boucher discloses that once the specific carrier is determined an online connecting is established with the carrier and the information is obtained from the carrier through the online connection (See abstract and Reference Numerals 24 and 130 with corresponding detailed descriptions). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify Nichols with the tracking server in the multi-carrier tracking system of Boucher, in order to provide a tracking service to a user, and allows a user to obtain prioritized tracking information from a carrier. (See Boucher abstract and column 3)

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17. Nichols discloses a multiple carrier system that calculates rates for carriers with specific parameters such as a notification of delivery. However, Nicholls fails to disclose that for each carrier determining whether the carrier would support the shipping of a particular parcel according to rules, and generating a simultaneous display of rates for multiple carriers for a delivery service. Kara discloses simultaneously displaying rates for multiple carriers for a selected delivery service (see Figure 8) and discloses the rates are disclosed for those carriers meeting the desired parameters (Column 22, lines 13-48). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify Nicholls, to display the rates for multiple carriers, as disclosed by Kara, in order to allow a user to compare rates and choose a carrier themselves. (see Kara, Columns 3-5).

18. Kara discloses an onscreen interactive display with a selection and comparison section for a plurality of carriers with a plurality of services (See Figure 8). Kara discloses a display where the rates of each carrier are displayed adjacent to the selected services (See Figures 8A). However Kara does not specifically disclose the rates being calculated with respect to time. Both UPS® and FedEx® disclose specific services where they are guaranteed delivery by a certain time in the day. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the time sensitive “urgency” services, as disclosed by FedEx® and UPS®, in order to ship thing and compete with a time advantage using guaranteed delivery times and to reduce costs, when delivery time is not of importance. (See Fed Ex Page 1). Kara, UPS® and FedEx® fail to disclose the use of a graph which simultaneously displays a graph of shipping fees and services, where one axis being date and one axis being time and where each cell is located at the intersection of the date and time.



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19. Kara and Nicholls disclose generating an online display of at least one service of a plurality of carriers, however fails to disclose the simultaneous display of the rates for each carrier for each service. Intershipper is an internet, online website, where internet users can enter origin, destination, package weight and dimensions and will be displayed every method possible that you can use to ship your package for all major shippers (See Internet Update Article Page 1, Paragraphs 1-3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Nicholls and Kara to display every method possible to ship a package, as disclosed by InterShipper, in order to find the cheapest shipping rate (See Page 1).

20. Nicholls, Kara, UPS and FedEx disclose calculating the date and time for each service, and InterShipper discloses arranging the results according to transit time, however fails to disclose the display including the date and time that is determined for each service calculated. Barnett discloses the use of a calendar which can be used for online purchasing of services (column 2, lines 63-67), where there is a graphical representation of date on one axis and time on another (See Figure 9). It would have been obvious to one having ordinary skill in the art at the time the invention was made to display the calculation of shipping rates, calculated by Kara, UPS® and FedEx® and Intershipper, in the format of displaying respective date and time, as disclosed by Barnett, in order to provide a multi-layers system wherein different categories can be overlaid on one another providing a single integrated display that allows a user to order or purchase a system based on the calendar day and time (See Barnett, column 2). The examiner considers that when the rates are displayed in a matrix, then each of the rates are displayed adjacent to the axis, and therefore displayed adjacent to the time and date of the service.

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***Response to Arguments***

21. Applicant's arguments filed 6/16/09 have been fully considered but they are not persuasive. The applicant is arguing all of the rejections based off the declaration submitted. As stated above, the declaration is not swearing behind any of the references applied against the claims, but simply against references that were cited previously. Therefore the affidavit is not effective and the arguments are not considered persuasive.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMISUE A. PLUCINSKI whose telephone number is (571)272-6811. The examiner can normally be reached on M-Th (5:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jamisue A. Plucinski/  
Primary Examiner, Art Unit 3629